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October 4, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

EX PARTE

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

RE: CC Docket Nos. 87-313, 93-197, AT&T's motion seeking nondominant carrier status

Dear Chairman Hundt:

The United Homeowners Association and Gray Panthers submit the following Ex Parte comments in the above referenced proceedings. We urge the Commission to amend AT&T's price cap rules to require that AT&T lower its standard residential rates to reflect fully access charge reductions. Further, we urge the Commission to defer any decision on AT&T's motion seeking nondominant carrier status until such time as the rules are amended.

Our comments are prompted, in part, by the letter we received from Kathleen M.H. Wallman, Chief, Common Carrier Bureau, dated August 8, 1995, in response to our communications of March 14, 1995, and June 22, 1995. (see attachments).

On March 14, 1995, UHA, the Gray Panthers, and NCSC filed an informal complaint with the Commission. The complaint alleged that standard, residential long-distance rates charged by AT&T, MCI and Sprint are unreasonable due to the interexchange carriers (IXCs) failure to pass through reductions in access charges to residential consumers. We asked the Commission to order a refund.

On June 22, 1995, UHA and the Gray Panthers asked the Commission to direct AT&T to lower its standard residential rates to reflect fully a $680 million reduction in access charges announced by the local exchange carriers. The request was in response to AT&T's announcement that it would pass through $350 million of the access charge reduction to some of its residential customers by extending for three months its "True Savings" plan

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and, "pocket another $330 million for itself."

Ms. Wallman's letter indicated that the Commission allows AT&T a great deal of pricing flexibility provided that, "its aggregate rate level does not exceed its price cap index;" that under current rules the Commission is unable to do anything about the issues raised in our letter. We, therefore, urge the Commission to amend the rules.

AT&T should be required to pass through access charge reductions to consumers by reducing standard rates. This will ensure that all AT&T customers -- those who pay standard rates and those who are enrolled in all of AT&T's discount calling plans -- benefit from access charge reductions.

We also feel that it is important, in the context of the current proceedings, to take issue with the letter's analysis regarding enrollment in the IXC's discount calling plans.

The letter notes that, "[a]lthough the Commission does not possess specific data, there is evidence that a sizeable percentage of AT&T's residential customers, and even a larger percentage of MCI's and Sprint's customers, take advantage of these discount offerings." As with beauty, "sizeable" is in the eye of the beholder, and the evidence that we have seen does not paint a pretty picture.

According to a study prepared by PNR and Associates (see attachment), of the 5,785 households studied for 1994, "30.8% used a long distance company call plan," and "32.25% of the long distance calls made were part of a long distance company call plan." Approximately 36%, 40% and 21% of calls made by AT&T, MCI and Sprint customers, respectively, were part of a discount calling plan. We believe that 32.25 percent is not "sizeable." In fact, it is rather disappointing in light of the rather sizeable amount of advertising AT&T, MCI and Sprint do to promote their calling plans.

Ms. Wallman's reply letter suggests that the Commission may believe that the problem we have identified -- IXC failure to pass through fully access charge reductions -- is mitigated by the fact that a "sizeable" number of residential customers subscribe to the discount calling plans. We believe that the PNR and Associates suggests just the opposite.

For example, the $350 million in access charge reductions that AT&T will pass through to consumers by way of a three month extension of its "True Savings" plan will benefit very few AT&T customers. Approximately one-third of AT&T's residential customers use a discount calling plan. But even a smaller percentage subscribe to "True Savings," one of approximately 10 residential calling plans offered by AT&T. If as many as one third of all calling plan participants subscribe to "True Savings," a rather generous assumption, then only 11 percent of AT&T customers will realize any benefit from the access charge reductions.

We hope that the Commission will view these results with the same concern that we do. The $680 million access charge reduction enjoyed by AT&T is due, in part, to the Commission's interim LEC price cap rules. The Commission announced the new rules with much fanfare, trumpeting new consumer savings. The reality is, however, that very few residential customers enjoyed any benefit at all from the Commission's interim price cap rules.

If the Commission wishes to ensure that consumers realize the benefits of future access charge reductions, it should amend AT&T's price cap rules to require that AT&T lower its standard residential rates to reflect fully access charge reductions.

We believe this is an especially urgent matter since press reports indicate that the Commission is seriously considering granting AT&T's request that it be considered a nondominant carrier. The Commission should not move forward with such an initiative until it has ensured that existing regulatory issues, such as the pass through, are resolved. Otherwise, it will simply be passing on a regulatory windfall to AT&T.

Thank you.

Sincerely,

Albert Clark
Albert Clark
Vice President
United Homeowners Association

Dixie Horning
Dixie Horning
Executive Director
Gray Panthers

/attachments

cc: Commissioner James Quello
Commissioner Andrew Barrett
Commissioner Rachelle Chong
Commissioner Susan Ness

William A. Caton, Secretary (2 copies)
Kathleen M.H. Wallman, Chief, Common Carrier Bureau

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN REPLY REFER TO

August 8, 1995

Jordan Clark
President
United Homeowners Association
1511 K Street, N.W., 3rd floor
Washington, D.C. 20005

Dear Mr. Clark:

I am writing to respond to the letter from your organization and from the Gray Panthers and the National Council of Senior Citizens expressing concern that the standard, residential long distance rates charged by AT&T, MCI and Sprint and others are unjust and unreasonable. I am also responding, at Chairman Hundt's request, to your letter and the letter from the Gray Panthers expressing concern about AT&T's decision to distribute savings in access charges mainly through its discount plans.

Many sectors of the long distance market are characterized by increasing competition. As you note, this competition has led to rate reductions that have benefitted many consumers. The FCC has adopted flexible policies for long distance services to keep pace with this competitive environment. We endeavor to focus our regulatory efforts on those parts of the market where competition has not yet become robust. Accordingly, we have streamlined our regulation of the services of carriers other than AT&T and most of AT&T's business services are subject to a streamlined form of regulation in light of competition in the marketplace. By contrast, AT&T's residential long-distance services are subject to a somewhat tighter, but still flexible, form of regulation known as price caps. The aggregate level of the rates for these services, including basic rates and discount plan rates, is subject to a price cap, or maximum price level, which is ratcheted down each year to reflect the increasing productivity in the telecommunications industry. The price cap is also adjusted to reflect the rate of inflation and to reflect certain changes in AT&T's costs, including access charge reductions. As long as AT&T's overall rate levels are below the price cap, AT&T has considerable flexibility to change rate levels for specific services. Thus, AT&T is allowed to raise basic long distance rates as long as its aggregate rate level does not exceed its price cap index.

AT&T submitted evidence during the Commission's <u>LEC Price Cap Plan Performance Review</u> that showed that its overall interexchange average revenues per minute, including amounts charged through discount calling plans, have decreased at a greater pace than the decline in access rates. At the same time, since 1990, when price caps were introduced for AT&T, AT&T's basic rates have increased.

Commission staff studies show that AT&T's basic schedule rates increased by 6.5 percent in calendar year 1993 and 5.4 percent in 1994. MCI's and Sprint's basic rates reflect similar increases. AT&T's increases in its basic direct-dialed interstate rates in 1993 and 1994 coincided, however, with its offering of promotional services and discount plans for residential customers, including those with relatively low monthly long distance bills. Although the Commission does not possess specific data, there is evidence that a sizeable percentage of AT&T's residential customers, and an even larger percentage of MCI's and Sprint's customers, take advantage of these discount offerings. The percentage rate increases attributed to AT&T usually do not take the effects of these discount offerings into account. Nevertheless, the Commission is concerned about the potential impact of this effect on those customers who cannot or do not take advantage of these plans.

Recently, the Commission opened a rulemaking to consider how AT&T's promotional and optional calling plans should be treated under our price cap rules. This rulemaking seeks comment, among other issues, on the impact of AT&T's increased use of these discounted offerings which have served to offset increases in basic schedule MTS rates and the impact of discount plan pricing on those customers who do not participate in these programs. The Commission also sought comment on whether it was appropriate to set new limits on AT&T's ability to raise prices in its basic rate schedule. In addition, the Commission asked parties to comment on AT&T's argument that it typically does not recover its costs from its low volume customers. The comment cycle on these issues (CC Docket Nos. 87-313, 93-197) closed on July 24. We expect to move forward promptly with recommendations for the Commission to consider.

In addition, AT&T has petitioned the Commission to declare the company "non-dominant" -- i.e., treat it like MCI and Sprint, for example, whose tariffs are presumed lawful and whose rates are not covered by price cap regulation. A primary focus in this proceeding will be the effect that grant or denial of AT&T's petition would have in the market for residential long-distance services.

Thank you for taking the time to write on this important issue. The participation of consumer-oriented groups such as yours is an important part of the public policy process and your correspondence has been included in the relevant Commission proceedings. I look forward to working with you in the future.

Sincerely,

Kathleen M.H. Wallman
Chief,
Common Carrier Bureau

UNITED HOMEOWNERS ASSOCIATION, 1511 K Street, NW, Third Floor, Washington, D.C. 20005, (202)408-8842

GRAY PANTHERS, 2025 Pennsylvania Avenue, Suite 821, Washington, D.C. 20006, (202) 466-3132

NATIONAL COUNCIL OF SENIOR CITIZENS, 1331 F Street, NW, Washington, D.C. 20004, (202) 347-8800

March 14, 1995

Kathie Kneff, Chief
Informal Complaints and Public Inquiry Branch
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
Room 6202
1919 M Street, NW
Washington, D.C. 20554

Dear Ms. Kneff:

This is a complaint by the undersigned, each of whom are, or represent, users of long distance services provided by either AT&T, MCI, Sprint or others, that the standard, residential long-distance rates charged by these companies are unjust and unreasonable.

Specifically, we ask that the Commission investigate these rates and order a refund to consumers. We ask that the Commission take whatever action it deems necessary to protect the interest of residential ratepayers rights to refunds in the event that this complaint is determined to be valid.

Long distance rates to be reasonable must be based on the cost of providing the service, plus a reasonable profit. We believe that there is sufficient evidence to warrant an investigation into whether AT&T's, MCI's and Sprint's basic rates are just and reasonable.

Since 1991, long distance carriers have raised their prices repeatedly. This has happened despite the fact that the cost of access paid by these companies has been decreasing. According to a study produced by National Economic Research Associates, access charges paid by AT&T fell by $10.1 billion from 1984 to 1992, while AT&T's long distance prices fell by only $8.2 billion for the same period. Instead of allowing its customers to realize the full benefits of lower access charges, AT&T has retained almost $2 billion of savings.

The treatment of access charges is of particular concern to senior citizens and homeowners who make relatively few long-distance calls and therefore pay basic rates. Tens of millions of Americans have not signed up for long distance discount plans, and many who have are not realizing savings. Many discount plans are triggered when a consumer's monthly bill hits a specified level. For example, those who subscribe to AT&T's True Savings plan must make $25 worth of calls before receiving any discounts. Each time their monthly bill is less than $25 they pay basic rates. It is our belief that fewer than 25 percent of residential consumers have monthly long-distance bills that exceed $20 or $25. Other AT&T discount plans require that discounted calls be made only at certain times of day. Similarly, MCI's Friends and Family plan only offers discounts when a call is placed to someone in a subscriber's calling circle, which automatically excludes more than 80 percent of the market.

Since 1991, access rates have continued to drop, but long distance rates continue to rise. According to the Commission's own reports, the standard rates charged by long distance companies have increased nearly 12 percent. During the same period, access rates on average have decreased nearly 13 percent.

Thank you for your attention to this request.

Sincerely,

/s/

Jordan Clark
President
United Homeowners Association

/s/

Dixie Horning
Executive Director
Gray Panthers

/s/

Lawrence Smedley
Executive Director
National Council of Senior Citizens

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Washington, D.C. 20005, (202) 408-8842

GRAY PANTHERS, 2025 Pennsylvania Avenue, NW, Suite 821
Washington, D.C. 20006, (202) 466-3132

June 22, 1995

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Chairman Hundt:

We are writing you and your fellow Commissioners to seek your assistance to assure that long distance consumers, particularly the 60 percent of the market controlled by AT&T, are not deprived of the benefit of your recent decision lowering the amount paid by AT&T for access to the local telephone network.

In announcing your decision, the Commission said that consumers would benefit from reduced access charges:

> "The interim plan requires LECs to pass through to long distance companies a greater share of the savings that they enjoy than under the current plan as the telecommunications industry becomes more efficient <u>so that long distance companies can pass them on to consumers."</u>(emphasis added)[1]

AT&T, however, has other plans.

As a result of your decision, AT&T's access charges will be reduced by $680 million annually. According to AT&T, $350 million will be passed through to some consumers by means of a "three month extension" of AT&T's "True Savings" calling plan. The long-distance giant plans to,"pocket another $330 million for itself."[2]

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[1] FCC. "Commission Affirms Commitment to Competition and Fair Long Distance Rates in LEC Price Cap Ruling." March 30, 1995.

[2] "AT&T to Pass $350 Million in Savings on to Consumers." <u>Wall Street Journal</u>, May 19, 1995.

The bottom line for consumers is that AT&T intends to "pocket" the full amount of the access charge reduction after the "True Savings" calling plan expires.

AT&T's proposal is inconsistent with the Commission's intent in adopting interim price cap rules and should not be tolerated.

AT&T and all other long distance carriers should be required to pass through all of the reductions in access costs. AT&T should also be required to pass through its savings to ALL of its customers, and not just the select few who might happen to have subscribed to its newest savings plan. All available evidence suggests that at most 30% of AT&T customers subscribe to ANY discount plan.[3] Clearly, of that 30% only a fraction belong to "True Savings" the newest plan that has been in effect less than six months.

As the Commission knows, AT&T began to offer its "True Savings" plan in response to MCI's offer of its "New Friends and Family." The discounts in that plan have no relationship to reduced access costs and cannot be considered as a pass through of those access costs. The introduction of the plan came after AT&T's initial announced price changes in December 1994, and only after MCI and Sprint had announced new plans that put competitive pressure on AT&T. For AT&T to use its competitive price reductions, which would have occurred even without the Commission mandated LEC access price reductions is a post hoc device that is untenable.

AT&T should be required to reduce its basic rates by a percentage designed to reflect the lower cost per minute it pays for access. Standard rates are typically defined in terms of a cost "per minute" of use based on time-of-day and distance of call. Further, most other discount rates are calculated from these "standard" rates. Thus, by requiring the use of basic rates as the vehicle for pass through to residential users the Commission will assure that the largest number of AT&T and therefore long distance customers will get the benefit.

AT&T's actions undermine the Commission's intent in adopting new price cap rules. We urge the Commission to act on its own initiative to correct this situation. We rely upon you, the agency with the responsibility for protecting consumer interests in this

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[3] Studies released by both PNR and Associates and the Yankee Group reveal that less than one-third of AT&T customers have signed up for a discount calling plan.

area, to ensure that consumers enjoy the full and intended benefits of your decision.

Thank you.

Sincerely,

Jordan Clark
President

Dixie D. Horning
Executive Director

cc: Commissioner Andrew Barrett
Commissioner Rachelle Chong
Commissioner Susan Ness
Commissioner James Quello
Secretary William Caton

PNR and Associates Bill Harvesting Study

Long Distance Company Call Plans

Introduction

During the spring and summer of 1994, PNR and Associates, a market research firm headquarted in Philadelphia, PA, collected local telephone, long distance, cable TV and cellular telephone bills from approximately 9,000 households throughout the US. In addition to providing their bills, respondents were asked to complete a brief questionnaire concerning their attitudes towards competition in the telecommunications and cable TV industries. From this information, two databases have been constructed. The *Aggregate Database* contains aggregate bill information for over 8,700 households. The *Call Detail Database* contains call detail information on all long distance calls made by over 6,000 households. Only those households that made long distance calls and provided complete long distance bills were included in the Call Detail database.

Aggregate Database

The Aggregate Database and associated software provides a quick view of average bill information by customer demographic segment, local exchange provider, long distance carrier, geographic location, etc. In addition, the software containing the database allows an almost instantaneous view of all potential cross-tabulations. For example, the database can be used to examine the average local and long distance bills and associated demographic characteristics of any RBOC's customers that use AT&T as their primary carrier and who are in favor of competition. In addition, the database will provide valuable market intelligence such as estimates of total expenditures on telecommunications services and cable TV by age, income, family size and location of customer.

Call Detail Database

The Call Detail Database links the aggregate bill information to a customer's call detail information. The database contains information *for each call*. This database can be used to examine the long distance calling characteristics of specific household segments including time-of-day, duration, carrier, type of call (e.g., calling card), call plan (e.g., Friends and Family), and charge per call. Since the database includes the terminating NPA and NXX of each call, it can also be used to quickly determine for any location the percent of toll calling that is interLATA versus intraLATA or to determine the percent of toll calling that terminates outside a local company's serving area as opposed to the toll calling that terminates inside the company's calling area. In addition, valuable market information can be obtained by examining calling patterns such as call concentration in terms of the number of people called or the number of NPA NXXs that are called.

Long Distance Calling

Of the 8,731 households in the Aggregate database, 7,431 provided long distance bill information including their long distance company. Table 1 summarizes, in quartiles, how much individual households spend on long distance service during a given month.

Table 1
% Distribution of Monthly Expenditures

Carrier	less than $6.24	$6.24 to $15.56	$15.57 to $32.89	More than $32.89	Household Count
AT&T	27.75%	25.41%	24.92%	21.92%	4955
MCI	19.39	24.50	25.54	30.57	1253
Sprint	17.88	19.54	25.16	37.42	481
Other	23.99	26.01	23.45	26.55	742
Total					7431

Use of Long Distance Company Call Plans

While the use of long distance company call plans (e.g., "True USA" and "Friends and Family") has grown, the Call Detail database indicates that during 1994, call plans were used by less than one-third of the households in the US and accounted for less than one-third of the total long distance company calls.

Table 2 shows that of the 5,785 households that made long distance calls using an IXC (intraLATA calls made using the local telephone company were not included), 30.8% used a long distance company call plan. Also, Table 2 shows that 32.35% of the long distance calls made were part of a long distance company call plan.

Table 2 shows, for example, that call plans account for 31.58% of *all* residential domestic calls. Not shown in the table, however, is call plan use by each of the major IXCs. The Bill Harvesting study results show that AT&T call plan calls account for 35.88% of all of AT&T's residential domestic MTS calling. Similiarly, MCI call plan calls account for 40.23% of MCI's total residential domestic MTS calling, while Sprint call plan calls account for 20.91% of Sprint's residential domestic MTS calling. Slightly more than 50% of international calls were made using call plans.

Table 2
Long Distance Calling Plans

	Households	*Calls*
Domestic Calls	29.08%	31.58%
International Calls	1.30%	0.56%
Other IXC Rate Plans	0.46%	0.21%
Total Rate Plan Calls	**30.84%**	**32.35%**
Non-Rate Plan Calls	**69.16%**	**67.65%**
Total	100.00%	100.00%

These results indicate that for this sample of customers, *over two-thirds* of long distance calls carried by the IXCs were billed at non-discount or tariffed rates. PNR and Associates will be conducting a second Bill Harvesting study in the Spring of 1995 in which it will examine changes in calling plan participation as well as other behaviors.